GOVERNMENT OF MYSORE.

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT (LABOUR).

Labour Disputes.—Industrial Dispute between the Workmen and the Management of Bharat Beedi Works, Karkala.

Award of the Labour Court, Hubli—published.

Read the following papers:—

(1) Letter No. 1288/67-68, dated 31st August 1967 from Shri Syed Azizuddin Ahmed, Presiding Officer, Labour Court, Hubli.

IN THE LABOUR COURT AT HUBLI.

Dated 31st August 1967.

Reference (ID)(LCH) No 79 of 1966.

Present:

Shri Syed Azizuddin Ahmed, M.A., B.L. — Presiding Officer.

Between:

The Workmen of Bharath Beedi Works, Karkala, represented by the Secretary, Beedi Mazdoor Sangh, Felix Pai Bazar, Mangalore ... *I Party.*

and

The Management of Bharth Beedi Works, Karkala ... *II Party.*

This is a reference under Section 10 (1)(c) of the Industrial Disputes Act, 1947, made by the Government of Mysore, in their Order No. LMA 583 LLD 66, dated 9th December 1966. The point of dispute referred for adjudication is as under:—

> Are the workmen of Bharath Beedi Works, Karkala, entitled to Bonus equivalent to 20 per cent of the earnings for each year 1963-64 and 1964-65 respectively ?
>
> If not to what other quantum of bonus are they entitled ?

2. The cause of the aggrieved workmen has been sponsored and espoused by The Beedi Mazdoor Sangh, Felix Pai Bazar,

Mangalore represented by its Secretary. Sri Prabhakar Ghate appeared for the I Party while Sri K. S. Rao, President, General Managements Association appeared for the II. In response to the notices issued by the Court, the Parties have filed their Pleadings dated 20th January 1967 and 30th January 1967 respectively.

3. The Pith and Substance of the claim statement is that the II Party is a flourishing firm, manufacturing the famous' N° 30' beedies. It has got branches and depots through out the state and out-side as well. The II Party has earned huge profits running lakhs of rupees for each of the years 1963-64 and 1964-65. It has paid its workmen two months salary as bonus for the above years. The I Party had demanded that the workmen may be paid bonus equivalent to six months salary. But the Government has chosen to refer the dispute limiting the claim to only 20 per cent of the earned wages. It was prayed that the reference be allowed.

4. The II Party does not seriously challenge its prosperity.. It maintained that the management is a partnership concern running beedi industry with its Head Office at Karkala. Almost all the beedies are manufactured by independent contractors, who engage their workers for the purpose, and they are rolled by outside workers. Even the labelling and packing is done by independent contractors except about 10 per cent of the total work is done in the establishment by employing regular workers. Therefore, the contribution or the participation in the prosperity of the concern by the workers employed by the management, is negligible. The management has paid bonus equivalent to two months wages and the workers have accepted the same without demur. Having accepted the said amount without protest, the workmen cannot subsequently raise the dispute after a lapse of several months. It is only when the wages fall short of living wage and the management earns the profit due to the participation of the workmen who demand bonus, then alone bonus becomes payable. The bonus paid to the workers by the management is more than what is payable under law. The Sangh is unnecessarily creating a dispute only with the intention to create disaffection among the workers and the management. It was prayed that the reference be dismissed with costs. The points of dispute specified in the order of reference was adopted as the issue in the case. The parties declined to lead oral evidence and filed documents as per lists.

FINDINGS

5 The learned representatives of the parties presented their cases in a very lucid manner and have made my task easy. Ex. W-1 is a letter dated 22nd January 1965 from the I Party demanding bonus equivalent to six months salary of each worker for the year 1963-64. Ex. W-2 and Ex.W- 3 are the calculation memos of available surplus for the years 1963/64 and 1964/65 as per the Full Bench formula filed by the I party while Ex M-3 and Ex.M-4 are the calculation memos of the available surplus for the same period filed by the II party.

6. The learned representative of the II party very strenuously contended that the management has paid bonus to its employees equivalent to two months salary for the years 1963-64 and 1964-65 respectively. This works out to 16 2/3 per cent of their earnings for each year. This should satisfy the demand of the I party. If they are allowed to open this question, the total wage bill of the workers as a class, who have contributed to the prosperity of the concern would have to be taken into consideration. He cited 1963 (2) LLJ 629 and 1959 (1) LLJ 644/663 in support of his contention. I perused these rulings with the attention they deserve. There is nothing in these rulings to support the centention of the learned representative of the management that the young and old, men and women, who are employed by the independent contractors and the wages paid to them are also to be taken into consideration in considering the claim of the I party. Sri Prabhakar Ghate rightly refuted the suggestion saying that the personal working under independent contractors can by no stretch of imagination be regarded as the workmen of the II party.

7. Sri K. S. Rao advanced an argument that the workmen had accepted bonus equivalent to two months wages for each one of the year without demur, therefore, they cannot subsequently rise the dispute. This argument is also without merit. There is nothing to prevent the I party from demanding bonus in the circumstances referred to above. Yet another argument was advanced by Sri K. S. Rao that the claim for the bonus for the year 1963-64 is a belated claim. I find no merit in this argument also. The I Party has been agitating for bonus since a long time and the delay, if any, is not much. According to the calculation memos of the I Party, the available surplus for the years 1963-64 and 1964-65 is Rs. 4 67,380 and Rs. 3,47,256 respectively, while

according to the calculation memos of the II Party, the available surplus for these two years is Rs. 4.28 lakhs and 3.04 lakhs respectively. These statements of calcluations are self-explanatory. The representatives of the parties took me through these calculation memos in detail and tried to convince me of their view point. Sri Prabhakar Ghate stated that the figures arrived at by them may not be meticulously exact and he would be satisfied by something less even. According to him, the additional bonus claimed comes 3½ per cent and would work up to Rs. 4,100 for the year 1963-64 and Rs. 4,600 for the year 1964-65 respectively. In view of the statement of Sri Prabhakar Ghate it would meet the ends of Justice if the management pays Rs. 4,000 as balance of bonus for the year 1963-64 and Rs. 4,000 for the year 1964-65.

AWARD

The workmen of Bharath Beedi Works, Karkala are entitled to bouus equivalent to 28 per cent of the earning for caeh year 1963-64 and 1964-65 respectively. The management having paid two months earnings as bonus for each one of of the years, shall pay the balance amount of Rs. 4,000 each for the years 1063-64 and 1964-65. The parties shall bear their own costs.

Place: Hubli

Date: 31-8-1967

SYED AZIZUDDIN AHMED,

Presiding Officer,
Labour Court, Hubli

ANNEXURE

Reference (IC) (LCH) No. 79/1966.

Witnesses examined for I *Party*

Nil

Witnesses examined for II *Party*

Nil

Documents marked for I *Party*

Exhibits:

W—1 Copy of letter dated 22nd January 1965 from I Party to II Party

W—2 Calculation memo dated 17th July 1967 of available surplus for the year 1963-64

W—3 Calculation memo dated 17th July 1967 of available Surplus for the year 1964-65

Decuments marked for II Party

M—1 Audited balance sheet, profit and loss account along with Income tax returns for the year 1963-64

M—2 Audited balance sreet, profit and loss account along with Income tax returns for the year 1964-65

M—3 Calculation memo for the year 1963-64

M—4 Calculation memo for the year 1964-65

Place: Hubli

Dated: 31st August, 1967.

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court, Hubli.

ORDER.

Bangalore, dated 5th September 1967.

S.O.1818.—WHEREAS by State Government Order No. LMA 583 LLD 66, dated 9th December 1966 the Industrial Dispute between the Workmen and the Managament of Bharath Beedi Works, Karkala was referred to the Labour Court, Hubli for adjudication ;

AND WHEREAS, the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute ;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore, are pleased to direct the publication of the said Award as above, in the *Mysore Gazette*.

[No. LMA 583 LLD 66.]

By Order and in the name of the Governor of Mysore,

1049 G. G. PUROHIT, *Under Secy.*